

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

TYEAST M. EDMOND,

Plaintiff,

v.

PLAINFIELD BOARD OF EDUCATION,

Defendant.

No. 11-cv-2805 (KM)(JBC)

**MEMORANDUM TO COUNSEL AND
PROCEDURAL ORDER**

I have received by fax transmission a letter from plaintiff's counsel, dated January 9, 2018 ("Jan. 9 Letter"). On this occasion only, I will have the clerk file it on the docket.¹

Counsel repeatedly objects that pretrial submissions were required to have been "filed on Christmas Day." (Jan. 9 Letter at 1) That of course was a deadline, not a requirement that the papers be filed on that particular day. *See also* Fed. R. Civ. P. 6(a) (where deadline is a legal holiday, it is extended to the next day that is not a legal holiday.) That deadline, by the way, was set three months previously, on September 25, 2017, giving the parties ample time to prepare. The papers were not filed before Christmas; they were not filed after Christmas, either; and they had not been filed as of January 3, 2018, five days before trial, when I

¹ Please see the court's procedures at www.njd.uscourts.gov/content/kevin-mcnulty.

All submissions, including correspondence, must be electronically filed via CM/ECF. One Courtesy Paper Copy of all motion papers, marked "Courtesy Copy," should be sent to chambers by regular mail or by hand.

Proposed Orders and Jury Charges : An additional copy, in Microsoft Word or WordPerfect format, should be emailed to njdnef_mcnulty@njd.uscourts.gov. Email subject line and file name in this format: 12-3456 Smith v Jones Proposed (order/jury charge).


entered my prior order. Counsel now state that a period of 30 days will permit them to be prepared.

I do not accept counsel's reasons for failing to prepare. As a result of 30 years' experience, however, I am well aware of the pressures and exigencies of law practice. Counsel's joint apology is fully accepted, with no hard feelings. Moving forward, on the subjects raised in the Jan. 9 Letter,

IT IS this 12th day of January, 2018

ORDERED as follows:

1. **Pretrial submissions.** Counsel's proposal that pretrial submissions be due on February 9, 2018, is slightly modified; they will be filed on or before February 8, 2018 at 4 p.m.
2. **Status conference.** There will be an in-person status and scheduling conference on February 9, 2018, at 1:00 p.m. in Courtroom 4, U.S. Post Office & Courthouse, Federal Square, Newark.
3. **Ejifor in limine motion.** The court will not currently accept additional briefing regarding the *in limine* motion for the following reason. A *Daubert* hearing will be required to resolve the issues posed by the *in limine* motion as to the permissibility and/or scope of the testimony of Mr. Ejifor. In the December 21, 2017 telephone conference defense counsel stated that Mr. Ejifor had left the country a few days earlier for a period estimated to be 30 days. If Mr. Ejifor is available for a hearing before the February 9 conference, defense counsel shall so notify the court. If not, defense counsel shall be prepared at the February 9 conference to propose dates, within 7 days thereafter, when Mr. Ejifor will be available for a *Daubert* hearing.
4. **Trial date.** As stated in my prior order, a trial date will not be scheduled until after all required filings are made. Counsel are forewarned that, at the February 9 conference, trial may be scheduled promptly. Subject to the Court's schedule with respect to an intervening trial, a trial date as early as February 20, 2018 is under consideration.



Hon. Kevin McNulty
United States District Judge